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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,254	03/17/2004	Marc D. Eichells	2186.005USU	4331

<sup>7590</sup>  
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<sup>07/07/2009</sup>

EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

07/07/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/802,254

**Applicant(s)**

ETCHELLS, MARC D.

**Examiner**

MELANIE J. HAND

**Art Unit**

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-16, 30 and 31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 14-16, 30, 31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 21, 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 14-16 have been considered but are moot in view of the new ground(s) of rejection prompted by applicant's amendment to the claims.

### ***Claim Objections***

3. Claim 16 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 16 recites a base panel that further comprises a top sheet, a bottom sheet, and one or more islands disposed between said top sheet of said base panel and said bottom sheet of said base panel, which is already recited in claim 14 from which it depends.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-16, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Pribonic et al (U.S. Patent No. 5,093,176).

With respect to **claim 14**: Pribonic discloses an absorbent pad. With regard to the limitation "for placement in a container", Pribonic discloses an article containing two pads 10 that can be folded over one another, thus the article is fully functional for placement in a container. The pad comprises a base panel comprising one pad 10 and one or more side panels having a second pad 10 comprising a top sheet 14, a bottom sheet 11, and one or more islands, i.e. pad 10, disposed between said top sheet and said bottom sheet (Fig. 6); a hinge in the form of hinge/folding strip 13, wherein said hinge 13 connects an edge of said base panel to an edge of each of said one or more side panels to provide complete folding of said one or more side panels onto said base panel (Col. 3, lines 55-58), and one or more side panels hingeably connected to said base panel, wherein said one or more side panels cover at least a portion of a side of the container in which the absorbent pad is placed. (whole document)

With respect to **claim 15**: The one or more side panels disclosed by Pribonic are foldable,

allowing the absorbent pad to conform to a base and sidewalls of a similarly dimensioned package or container.

With respect to **claim 16**: The base panel disclosed by Pribonic comprises one pad 10 and one or more side panels having a second pad 10 comprising a top sheet 14, a bottom sheet 11, and one or more islands, i.e. pad 10, disposed between said top sheet and said bottom sheet. (Fig. 6)

With respect to **claim 30**: As can be seen in Fig. 1, the hinge 13 disclosed by Pribonic provides a space between said base panel and each of said one or more side panels.

With respect to **claim 31**: The hinge 13 is a film connection between said base panel and each of said one or more side panels inasmuch as Pribonic discloses that the strip is contiguous with backing sheet 11, which is a laminate film. (Fig. 1, Col. 4, lines 53-57)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/  
Examiner, Art Unit 3761